

REMARKS

The Office Action of May 4, 2010 requires election of species with respect to pending claims 1-21. Applicants hereby respond by election of species as required for prosecution on the merits. With this response, claims 1-21 remain pending.

I. Amendments to the Claims

Amendment of claims 4, 6, 8-11, 13-14, 16-17, and 19-21 is requested to eliminate multiply dependent claims depending from other multiply dependent claims. The requested amendment of claims 4, 6, 8-11, 13-14, 16-17, and 19-21 does not introduce any new matter.

II. Restriction Requirement

The Office Action of May 4, 2010 asserts that the application contains claims directed to the following patentably distinct species:

Electrochemical Cell	A – Battery		
	B - Supercapacitor		
Anode	I – titanium dioxide	1 – Mesoporous	1a – Hexagonal
			1b - Cubic
		2 – Nanoparticulate	
	II – lithium titanate	1 - Mesoporous	1a - Hexagonal
			1b - Cubic
		2 - Nanoparticulate	

In accordance with Office requirements, Applicants provisionally elect, with traverse, the subject matter drawn to Species B (Supercapacitor), with the Anode comprising Species I (titanium dioxide), with Species 1 (Mesoporous) and Species 1a (Hexagonal). Claim 21 corresponds to Species A; claim 16 corresponds to Species I; claims 2, 3, 8-12 correspond to Species 1, and claims 11 and 12 correspond to Species 1a. Applicants identify claims 1-21 as generic claims to the various species identified in the Office Action.

Applicants respectfully disagree with the Examining Attorney's requirement for an election of species in the present application, and request reconsideration and withdrawal of the pending election requirement in light of the following arguments. First, Applicants assert that the subject matter of Species A and B, I and II, 1 and 2, and 1a and 1b is close enough so as not to impose a significant burden in searching and examining the allegedly distinct or independent species. Similar prior art would need to be compiled and analyzed for an evaluation of the patentability of the claims of all of these species given that claims corresponding to the various species overlap considerably. Second, the pending claims are characterized by a well-defined important technical feature in common so as to incorporate at least one single, unifying inventive concept. For example, all of pending claims 1 – 21 are directed electrochemical cells having a combination of an anode comprising titanium dioxide or a lithium titanate; and an electrolyte comprising an aqueous solution containing lithium and hydroxide ions. The existence of this common technical feature makes Examination of all of the claims practical for the present application. Accordingly, Applicants respectfully request reconsideration and withdrawal of the Examiner's restriction requirement because no undue search burden is placed on the Office and due to the existence of a novel unifying technical aspect in the pending claims.

Applicants hereby reserve the right to pursue rights in the fullest extent of subject matter of the present invention including, but not limited to, unelected species, in the present application or any subsequently filed continuation, divisional and/or continuation-in-part applications.

CONCLUSION

Applicant submits that in light of the election of species, this application is in condition for allowance. Accordingly, passage to allowance is respectfully requested.

It is believed that a two month extension of time and fees for four additional dependent claims are required for this submission. Accordingly, payment in the amount of \$ 698 (\$490 for the extension of time, and \$208 for four additional dependent claims)

is being concurrently being made using the EFS-Web system. If that amount is incorrect, or if there is a problem with the electronic submission, please deduct all necessary fees for this submission and any extension of time required from Deposit Account No. 07-1969.

Respectfully submitted,

/sbbaroneREG53968/

GREENLEE AND SULLIVAN P.C.
4875 Pearl East Circle, Suite 200
Boulder, CO 80301
Telephone: (303) 499-8080
Facsimile: (303) 499-8089
E-mail: uspto@mail@greenwin.com
Attorney docket No. 168-06
August 3, 2010

Stephen B. Barone
Reg. No. 53,968